

Senate Bill No. 1279

Passed the Senate August 11, 2008

Secretary of the Senate

Passed the Assembly August 7, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 995.640 and 995.650 of the Code of Civil Procedure, and to amend Sections 1815, 12070, 12072, and 12921 of, and to repeal Sections 900.7, 12071, and 12073 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1279, Maldonado. Insurance: electronic records.

Existing law provides that the county clerk of any county shall, upon request of any person, issue a certificate stating the status of the certificate of authority of an admitted surety insurer, as specified.

This bill would provide that upon review of the Internet Web site of the department, the county clerk of any county shall, upon request of any person, issue a certificate stating whether a surety is admitted or stating the status of the certificate of authority of an admitted surety insurer, as specified. By imposing a duty on a county official, this bill would impose a state-mandated local program.

Existing law provides that, if an objection is made to the sufficiency of an admitted surety insurer, the person making the objection must include in the objection either the certificate of the county clerk of the county in which the court is located stating that the insurer has not been certified by the commissioner as an admitted surety insurer or that the certificate of authority of the insurer has been impaired, as specified, or an affidavit stating facts that establish the insufficiency.

This bill would provide that the certificate of the county clerk included in the objection shall state that the insurer is not listed as an admitted surety insurer on the department's Internet Web site, or that the certificate of authority of the insurer has been impaired, as specified.

Existing law requires certain annual and quarterly statements to be filed in triplicate, by the insurer, with the office of the Department of Insurance in Los Angeles, as specified.

This bill would repeal that provision.

Existing law provides that the commissioner shall certify and provide to the county clerks specified information concerning various types of bail agents and admitted surety insurers. Upon change of status, as specified, of any license or certificate of authority of one of these agents or insurers, the commissioner is required to notify the respective county clerks. Existing law requires county clerks to maintain these records for 2 years, after which they may be destroyed, as specified.

This bill would eliminate these existing obligations of the commissioner to certify and provide this information, and of county clerks to maintain these records, and would instead require the commissioner to publish and maintain a list of these various bail agents and admitted surety insurers on the department's Web site with specified information. Upon change of status of any license or certificate of authority, the commissioner would be required to update the department's public Web site. This bill would also make conforming changes.

Existing law specifies the powers and duties of the Insurance Commissioner and requires that certain records be maintained by the department, as specified.

This bill would provide that notwithstanding any other provision of law, the commissioner may accept and maintain records in electronic form, process transactions electronically, and adopt regulations regarding these functions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 995.640 of the Code of Civil Procedure is amended to read:

995.640. Upon review of the Internet Web site of the Department of Insurance, the county clerk of any county shall, upon request of any person, do any of the following:

(a) Issue a certificate stating whether a surety is admitted or if the certificate of authority of an admitted surety insurer issued by

the Insurance Commissioner authorizing the insurer to transact surety insurance has been surrendered, revoked, canceled, annulled, or suspended, and, in the event that it has, whether renewed authority has been granted. The county clerk in issuing the certificate shall rely solely upon the information furnished by the Insurance Commissioner pursuant to Article 2 (commencing with Section 12070) of Chapter 1 of Part 4 of Division 2 of the Insurance Code.

(b) Issue a certificate stating whether a copy of the transcript or record of the unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of an admitted surety insurer entitling or authorizing the person who executed a bond to do so for and on behalf of the insurer, is filed in the office of the clerk.

SEC. 2. Section 995.650 of the Code of Civil Procedure is amended to read:

995.650. If an objection is made to the sufficiency of an admitted surety insurer, the person making the objection shall attach to and incorporate in the objection one or both of the following:

(a) The certificate of the county clerk of the county in which the court is located stating that the insurer is not listed as an admitted surety insurer on the department's Internet Web site or that the certificate of authority of the insurer has been surrendered, revoked, canceled, annulled, or suspended and has not been renewed.

(b) An affidavit stating facts that establish the insufficiency of the insurer.

SEC. 3. Section 900.7 of the Insurance Code is repealed.

SEC. 4. Section 1815 of the Insurance Code is amended to read:

1815. The commissioner shall publish and maintain a list of the names of holders of bail agents' and bail permittees' licenses and their solicitors on the department's public Web site, together with their license numbers and any other information in respect to the persons as he or she considers advisable. He or she shall promptly upon termination, for any cause, of any license, update the department's public Web site.

SEC. 5. Section 12070 of the Insurance Code is amended to read:

12070. The commissioner shall publish and maintain a complete list of all admitted surety insurers on the department's public Web site. The list shall set forth all of the following:

- (a) The full corporate name of the insurer.
- (b) The name of the state or country under whose laws the insurer is organized.
- (c) The date of the certificate of authority issued to the insurer to transact surety insurance in this state.

SEC. 6. Section 12071 of the Insurance Code is repealed.

SEC. 7. Section 12072 of the Insurance Code is amended to read:

12072. (a) Whenever the insurer's certificate of authority is surrendered, revoked, canceled, annulled, or suspended or whenever any such insurer, after such abrogation of its certificate again is admitted, the commissioner shall promptly update the list of admitted surety insurers on the department's public Web site to include the name of the insurer and the date of that abrogation of, or of renewal of, the certificate.

(b) The list of admitted surety insurers maintained on the department's public Web site may be used by county clerks and others to confirm the license status of surety insurers.

SEC. 8. Section 12073 of the Insurance Code is repealed.

SEC. 9. Section 12921 of the Insurance Code is amended to read:

12921. (a) The commissioner shall perform all duties imposed upon him or her by the provisions of this code and other laws regulating the business of insurance in this state, and shall enforce the execution of those provisions and laws.

(b) In an administrative action to enforce the provisions of this code and other laws regulating the business of insurance in this state, any settlement is subject to all of the following:

(1) The commissioner may delegate the power to negotiate the terms and conditions of a settlement but the commissioner may not delegate the power to approve the settlement.

(2) Unless specifically provided for in a provision of this code, the commissioner may not agree to any of the following:

(A) That the respondent contribute, deposit, or transfer any moneys or other resources to a nonprofit entity.

(B) That a respondent contribute, deposit, or transfer any fine, penalty, assessment, cost, or fee except to the commissioner for deposit in the appropriate state fund pursuant to Section 12975.7.

(C) That the commissioner may or shall direct the transfer, distribution, or payment to another person or entity of any fine, penalty, assessment, cost, or fee.

(D) The use of the commissioner's name, likeness, or voice in any printed material or audio or visual medium, either for general distribution or for distribution to specific recipients.

(3) The commissioner may only agree to payment to those persons or entities to whom payment may be due because of the respondent's violation of a provision of this code or other law regulating the business of insurance in this state.

(4) A settlement may only include the sanctions provided by this code or other laws regulating the business of insurance in this state, except that the settlement may include attorney's fees, costs of the department in bringing the enforcement action, and future costs of the department to ensure compliance with the settlement agreement.

(c) Notwithstanding any other provision of law, the commissioner may accept documents submitted for filing or approval, process transactions, and maintain records in electronic form or as paper documents, and may adopt regulations to further this subdivision.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

Approved _____, 2008

Governor